

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

ANNAMARIE K. FRENCH,
administratrix of the estate
of RUSSELL SMITH, JR.,

Plaintiffs,

v.

Civil Action No. 2:18-cv-1544

XPO LOGISTICS FREIGHT, INC.,
and WILLIAM WESLEY WILLIAMS,

Defendants and
Third-Party Plaintiff,

v.

LEATH LIVESTOCK & TRUCKING, LLC
and JOSHUA S. LEATH,

Third-Party Defendants.

Order

Pending is plaintiff's motion for leave to file a first amended complaint, filed July 17, 2019. The same day, the parties filed a joint stipulation consenting to the filing of the amended complaint. Plaintiff seeks leave to amend the complaint to add a claim against the newly added third-party defendants, Leath Livestock & Trucking, LLC and Joshua S. Leath.

This case arises from an automobile accident in which Russell Smith, Jr. collided with a tractor-trailer of which the driver, William Wesley Williams working for XPO Logistics

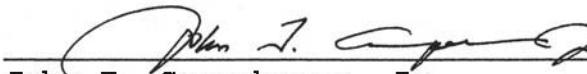
Freight, Inc., had lost control. After the initial collision, Mr. Leath, operating another tractor-trailer, struck the collided automobiles of Mr. Smith and Mr. Williams. Mr. Smith was killed in the accident, and Ms. French, as administratrix of his estate, filed a complaint against Mr. Williams and XPO Logistics Freight, Inc. The defendants thereafter filed a third-party complaint on June 7, 2019, asserting indemnity and contribution claims against Mr. Leath and Leath Livestock & Trucking, LLC. (ECF # 31). The plaintiff now seeks leave to file claims against the third-party defendants as well. The plaintiff contends that the claims are brought within the statute of limitations and are directly related to the allegations the defendants assert in their third-party complaint. No response in opposition was filed.

A party may amend its pleading with leave of the court. Fed. R. Civ. P. 15(a)(2). Leave to amend should be granted "freely . . . when justice so requires." Fed. R. Civ. P 15(a)(2). Therefore, in the absence of any suggestions by defendant that the amended complaint results in prejudice, was motived by bad faith, or raises futile claims, see Edwards v. City of Goldsboro, 178 F.3d 231, 242 (4th Cir. 1999), it is ORDERED that plaintiffs' motion be, and it hereby is, granted.

The plaintiff is directed to effect service of the amended complaint promptly.

The Clerk is directed to file the amended complaint attached to plaintiffs' motion (ECF No. 44, Ex. A). The Clerk is further requested to transmit copies of this order to all counsel of record and any unrepresented parties.

DATED: August 5, 2019



John T. Copenhaver, Jr.
Senior United States District Judge